

CLERK OF DISTRICT COURT
WESTERN DISTRICT OF TEXAS

2000

JOHN DOE,

PLAINTIFF,

V.

FRANKLIN BANK, S.S.B.,
FRANKLIN BANK CORP.,
ADMINISTAFF COMPANIES II, L.P.,
THERESA LEFLORE AS
REPRESENTATIVE OF FRANKLIN
BANK, S.S.B., FRANKLIN BANK
CORP. AND ADMINISTAFF
COMPANIES II, L.P., AND
JOANNE PARTRIDGE AS
REPRESENTATIVE OF FRANKLIN
BANK, S.S.B., FRANKLIN BANK
CORP. AND ADMINISTAFF
COMPANIES II, L.P.,
DEFENDANTS.

CAUSE NO. A-08-CA-293-LY

Before the Court are Defendant Teresa LeFlore's Motion to Dismiss under FRCP 12(b)(6) and Motion for More Definite Statement under FRCP 12(e) filed June 23, 2008 (Doc. #11); Defendant Joanne Partridge's Motion to Dismiss under FRCP 12(b)(6) and Motion for More Definite Statement under FRCP 12(e) filed June 23, 2008 (Doc. #12); Defendant Joyce Erfurdt's Motion to Dismiss under FRCP 12(b)(6) and Motion for More Definite Statement under FRCP 12(e) filed June 23, 2008 (Doc. #13); Defendant Franklin Bank, S.S.B.'s Partial Motion to Dismiss under FRCP 12(b)(6) and Motion for More Definite Statement under FRCP 12(e) filed June 23, 2008 (Doc. #14); Defendant Administaff Companies II, L.P.'s Partial Motion to Dismiss under FRCP 12(b)(6) and Motion for More Definite Statement under FRCP 12(e) filed June 23, 2008 (Doc. #15); Plaintiff's Collective Response Opposing Defendants' Motions for More Definite Statement under

FRCP 12(e), Plaintiff's Request to Proceed under Pseudonym, and Plaintiff's Request for Protective Order filed July 2, 2008 (Doc. #29); Plaintiff's Collective Response to the Motions to Dismiss under FRCP 12(b)(6) of Defendants LeFlore, Erfurdt, and Partridge and Plaintiff's Motion for Leave to File Second Amended Complaint, filed July 7, 2008 (Doc. #30); Defendant Franklin Bank Corp.'s Motion to Dismiss under FRCP 12(b)(6) and Motion for More Definite Statement under FRCP 12(e) filed July 7, 2008 (Doc. #32); Plaintiff's Response Opposing Defendant Franklin Bank Corp.'s Motion to Dismiss under FRCP 12(e) filed July 8, 2008 (Doc. #34); Plaintiff's Response Opposing Franklin Bank Corp.'s Motion to Dismiss under FRCP 12(b)(6) filed July 14, 2008 (Doc. #35); Defendants' Reply to Plaintiff's Collective Response Opposing Defendants' Motions for More Definite Statement under FRCP 12(e) and Response to Plaintiff's Request to Proceed under Pseudonym and for Protective Order filed July 14, 2008 (Doc. #36); Plaintiff's Reply to Defendant's Response to Plaintiff's Requests to Proceed under Pseudonym and for a Standard Protective Order filed July 18, 2008 (Doc. #37); Defendants Franklin Bank, S.S.B. and Administaff Companies, L.P.'s Reply to Plaintiff's Collective Response to Defendants' Partial Motions to Dismiss under FRCP 12(b)(6), and Response to Plaintiffs Request for Leave to File Second Amended Complaint, filed July 18, 2008 (Doc. #38); Defendants' Reply to Plaintiff's Collective Response to the Motions to Dismiss under FRCP 12(b)(6) of Defendants LeFlore, Erfurdt, and Partridge, and Response to Plaintiff's Motion for Leave to File Second Amended Complaint filed July 18, 2008 (Doc. #39); Defendant Franklin Bank Corp.'s Reply to Plaintiff's Response to Defendant's Motion to Dismiss under FRCP 12(b)(6), filed July 25, 2008 (Doc. #40); and Plaintiff's July 28, 2008 letter to the Court. The motions were referred to Magistrate Judge Robert Pitman for a Report and Recommendation as to the merits pursuant to 28 U.S.C. § 636(b), Rule 72 of the Federal Rules of

Civil Procedure, and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas. The Magistrate Judge filed his Report and Recommendation on September 3, 2008 (Doc.#44), recommending that this Court deny all the motions to dismiss and for more definite statement and grant Plaintiff's request to proceed under pseudonym and request for protective order and Plaintiff's motion for leave to file second amended complaint.

Pursuant to 28 U.S.C. § 636(b) and Rule 72(b) of the Federal Rules of Civil Procedure, a party may serve and file specific, written objections to the proposed findings and recommendations of the Magistrate Judge within 10 days after being served with a copy of the Report and Recommendation, and thereby secure a *de novo* review by the District Court. A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation in a Report and Recommendation bars that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the District Court. *See Douglass v. United Services Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (*en banc*).

The parties in this cause were properly notified of the consequences of a failure to file objections. Objections to the Interim Report and Recommendation were due September 19, 2008. No party has filed objections to the findings of fact and conclusions of law in the report and recommendation. The Court, having reviewed the entire record and finding no plain error, accepts the report and recommendation filed in this cause.

IT IS THEREFORE ORDERED that the United States Magistrate Judge's Report and Recommendation (Doc. #44) filed in this cause is hereby **APPROVED** and **ACCEPTED** by the Court.

IT IS FURTHER ORDERED that Defendant Teresa LeFlore's Motion to Dismiss under FRCP 12(b)(6) and Motion for More Definite Statement under FRCP 12(e) filed June 23, 2008 (Doc. #11) are **DENIED**.

IT IS FURTHER ORDERED that Defendant Joanne Partridge's Motion to Dismiss under FRCP 12(b)(6) and Motion for More Definite Statement under FRCP 12(e) filed June 23, 2008 (Doc. #12) are **DENIED**.

IT IS FURTHER ORDERED that Defendant Joyce Erfurdt's Motion to Dismiss under FRCP 12(b)(6) and Motion for More Definite Statement under FRCP 12(e) filed June 23, 2008 (Doc. #13) are **DENIED**.

IT IS FURTHER ORDERED that Defendant Franklin Bank, S.S.B.'s Partial Motion to Dismiss under FRCP 12(b)(6) and Motion for More Definite Statement under FRCP 12(e) filed June 23, 2008 (Doc. #14) are **DENIED**.

IT IS FURTHER ORDERED that Defendant Administaff Companies II, L.P.'s Partial Motion to Dismiss under FRCP 12(b)(6) and Motion for More Definite Statement under FRCP 12(e) filed June 23, 2008 (Doc. #15) are **DENIED**.

IT IS FURTHER ORDERED that Defendant Franklin Bank Corp.'s Motion to Dismiss under FRCP 12(b)(6) and Motion for More Definite Statement under FRCP 12(e) filed July 7, 2008 (Doc. #32) is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff's Request to Proceed under Pseudonym, and Plaintiff's Request for Protective Order filed July 2, 2008 (Doc. #29) is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff's Motion for Leave to File Second Amended Complaint, filed July 7, 2008 (Doc. #30) is **GRANTED**.

IT IS FINALLY ORDERED that the Clerk shall file in the record Plaintiff's Second Amended Complaint, attached as "Exhibit B" to Plaintiff's Motion for Leave to File Second Amended Complaint (Doc. #30).

SIGNED this 29th day of October, 2008.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE